

BEFORE THE OFFICE OF THE COMMISSIONER OF RAILROADS

STATE OF WISCONSIN

In the Matter of the:

Petition of the Wisconsin Central, Ltd. for the Closure of the Public Crossing of the Wisconsin Central, Ltd. Tracks with Pine Grove Road and the Commissioner's motion to examine safety and the possibility of closure or alterations to all crossings lying west of State Road 96 in the Town of Dale, Outagamie County.

9164-RX-550

INTERIM ORDER

By letter dated March 26, 2004, the Wisconsin Central, Ltd. filed a petition with the Office of the Commissioner of Railroads (OCR) under §§195.28 and 195.29, Stats., for the closure of the public crossing of the Wisconsin Central, Ltd. tracks with Pine Grove Road in the Town of Dale, Outagamie County (crossing no. 692-427L). The proceeding was expanded, on motion of the Commissioner, to consider an alternate extension of the Anton Siding westward with the construction of a single grade separated crossing replacing the present crossings at both Shaky Lake Road and School Road. In the event that this latter course was ordered, Pine Grove Road would remain open.

A hearing was held on August 12, 2004 at the Town of Dale Town Hall. Several citizens opposed the closing of Pine Grove Road. However, the reasons given for opposition were not compelling in relation to the need of the Railroad to use its property to efficiently move freight. Most notable was a couple who owned property on both sides of, but not contiguous with, the tracks. One parcel is a homestead and the other a small piece of vacant land used for recreational purposes. The ownership does not qualify for private crossing rights.

Wisconsin Central, Ltd. has offered compensation to the Town of Dale for the closure of Pine Grove Road in the amount of \$50,000.00 together with an additional \$7,500.00 as and for a contribution to be matched by funds granted to the Township in a like amount by the State of Wisconsin. The Town rejected such offers. However, it is specifically found that, in the event of a final order closing Pine Grove Road such payments to the Town of Dale would be fair and reasonable and will form a part of such final order.

Wisconsin Central, Ltd represents that its need to improve the Anton Siding is very urgent. The lack of completion of the siding extension in this construction season will cause or continue a systemic inefficiency resulting in a severe restraint on its ability to move freight through this State. The resultant loss in revenues to Wisconsin Central, Ltd. would be very large and the impacts to the interstate transportation of freight very significant.

Examination of the alternatives to the closure of Pine Grove Road will require engineering studies and possible environmental impact studies which cannot be adequately performed in the timeframe

allowed by the urgency asserted by the Railroad. Wisconsin Central Ltd. has indicated, on the record, its understanding that, should this Office grant it an interim order closing Pine Grove Road pending further hearings in this matter, that the investment made by it in extending Anton Siding in an easterly direction may be wasted. This would certainly be the case if the final order in this proceeding directs the re-opening of Pine Grove Road as a single track crossing. Wisconsin Central, Ltd has asserted its willingness to assume the risk of such loss as an inducement to this Office to grant interim relief with an order closing Pine Grove Road on a temporary basis.

Now, therefore, in accordance with the foregoing, **IT IS HEREBY ORDERED** as follows:

- 1) That, pending further order in this proceeding, the public crossing of the Wisconsin Central, Ltd. tracks by Pine Grove Road in the Town of Dale, Outagamie County, (crossing Number 692-427L) be and hereby is closed to public travel.
- 2) That Wisconsin Central, Ltd. shall install or cause to be installed steel guard barricades with reflective red and white stripes at the termini of both the northern and southern approaches to its right-of-way by Pine Grove Road by **October 15, 2004**.
- 3) That Wisconsin Central Railroad may, after installation of the barricades above described, remove such of the roadway surface lying within its right-of-way as it may deem necessary to its project to extend Anton Siding.
- 4) That Wisconsin Central, Ltd. shall give notice in writing to the Town of Dale at least 10 days prior to commencing work to close the crossing.
- 5) That no turn-a-rounds are ordered to be constructed at this time, however, a hearing will be held for the purpose of considering the installation of temporary turn-a-rounds upon request to do so from the Town of Dale.

Dated at Madison, Wisconsin, this 15th day of September, 2004

By the Office of the Commissioner of Railroads.

Rodney W. Kreunen
Commissioner of Railroads

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